

Ntamba

224 of the two arches, and the other one is held in place by a mobile stick (D) placed transversally between the tips of the arches in such a fashion as to bar the mouth of the hole. In leaving or returning, the rodent sticks its head through the noose, and being impeded by the transverse stick (D), it pushes the stick aside with its paws, releasing the trigger stick (C) and the bent branch (E) which snaps up. The rodent is automatically caught in the noose, pulled up, and strangled. This snare is remarkably sensitive, and the rodent who tackles it is invariably caught.

The natives also set up snares for antelope. Being very observant, they quickly discover the place where an antelope passes regularly, as well as the size of the animal. They place a rattan noose at this spot and carefully hide it in the grass and leaves. The animal sticks its head through the noose in passing and is trapped. The more the animal struggles, the tighter the noose is drawn.

The native sets traps for the large flesh-eaters, hyenas, leopards, and large wild cats. [Ed., the text is not translated from the third paragraph, page 62, to the second paragraph, page 64.]

[64] Hunting the elephant and the hippopotamus involves traps, pitfalls, the spear, and the harpoon.

The pitfalls consist of large holes dug along the paths frequented by the pachyderms. These holes are three to four meters long, two meters wide, and four to five meters deep. At the bottom, the native plants wooden stakes whose ends, carved to a point, are hardened by fire. The opening is hidden by a mat of tree branches and roughly plaited creepers, covered with leaves and grass. These traps are a real danger to travelers in the country, and therefore the native is required to indicate their presence by a conventional sign prominently displayed. I first noticed these signposts between the Mosengere villages of Lokila and Gomo Erenge: a strong stake perpendicular to the ground, on top of which the native fastens a hoop and a stick. The latter is fixed obliquely to the ground in the direction of a straight line from the post to the trap. If a native neglects to place the signpost, he loses his right to the game caught in the trap, and he is held responsible for any accidents that might result from his negligence.

573^x
471
[386] If one day the marriage is dissolved, the wife may no longer claim any right to the fields, utensils, clothing, etc. She does not inherit from her husband. When she herself dies, her family has no right to anything she may have left except, of course, to valuables she has received on the occasion of the marriage of one of her daughters. (2)

2. See Chapter II, Article V. For fuller details, see Chapter VIII, Article V, and Chapter IX, Articles IV and VII.

573^x
672
421 The woman's position with respect to property has yet another consequence; a husband is responsible for damage caused by his wife. He is the one who must pay the indemnity. The same is true for any debts she may have contracted. If she has borrowed, her creditor claims his due not from the woman nor her family, but from her husband. He alone is recognized as legally responsible, since he alone has the rights to his wife's economic activity, and profits as well as losses from it. Afterward he has the right to scold and even beat his wife for causing him this financial injury. However, an exception is made in cases where the woman's family officially acknowledges, by publicly paying a ndanga before witnesses, that she is at fault and thus frees the husband of any responsibility.

We may thus draw the following conclusions:

- 1) A woman is not an owner.
- 2) However she has the right to a reasonable amount for her various needs. This right is not a true property right (jus in re); it is a right to what is necessary for subsistence (jus ad rem).
- 3) Thus it is not possible for a woman's parents to inherit the goods which her husband has placed at her disposal [265].
- 4) A wife never acts in her own name but as her husband's agent; therefore he is legally responsible.

593^x required to re-establish peace and harmony by means of a considerable
758 boondo, for having failed to take care of his wife and for having
shown complete thoughtlessness and indifference.

If the illness becomes prolonged or serious, neither the hus-
593^x band nor his relatives have the leisure to nurse or take care of her.

758 To remedy this situation and at the same time give the woman's
672 parents the satisfaction of being able to help their daughter them-
selves, the husband sends her to them. He takes her there himself
or calls them to come and get her. He communicates the news
by sending his ndonga who bears a token payment (ndanga, loakako)
such as a knife, a copper ring, etc. This ndanga is a pledge, evi-
dence for the family that their daughter was ill on arrival and did not
acquire her infirmity while with them. Without this pledge they would
not want to take her; they would prefer to treat her in her husband's
home. Or if the husband were to send her home without a ndanga,
they would call the ndonga to witness this infraction of the rules. Or
the fact that the husband has done this might be considered as a
repudiation of his wife, pure and simple. In any case the husband
would be in the wrong, and under these conditions the legal responsi-
bility for his wife's death would fall entirely on him (see Chapter IX,
Article X).

593^x When the wife is cured, her parents send a message to their
758 son-in-law to urge him to come and take his wife back.

Even if they have not been invited by the husband, the wife's
parents come to see their daughter when they hear of her illness [268]
in order to take her away with them and care for her. She usually
follows them, but she is not required to do so since she belongs to
her husband. People even cite the names of women who despite the
insistence of their families did not want to be cared for at home,
but have preferred to die in their husband's arms, so to speak. Among
them were Boldmbé w'ikofé of Bombénga w'ókenda (Besombé) married
to Iembe y'longo of Engónjé; Baleko of Næké married to Eanga éá
Jatá of Nkélengo; Iombe of Bosá married to Bokómbwá of Isá;
Balengola of Ntómbe (Bombwanja) married to Lompoko of Mbelé;
Mpémbe of Bonganda (Bonkoso) married to Imbamba of Bonjoku;

573*
758 Efala of Longa married to Ifolí of Bokényola (Bonjoku); Basáse of
Mbelé married to Nkengo of Litlilí.

If the woman went to her family in good health and contracted an infirmity there, her parents are responsible for it. They are obliged to nurse her and to assume all the expenses due to her treatment. After she is cured they send her back with a quantity of nkomi for her husband. Usually the matter ends there. If relations between the two families are not very good, however, the husband will claim an indemnity, which varies with the situation and to which he is entitled even if he does not claim it.

This stipulation of the law holds even if the woman has gone to see her mother, father, etc., at the time of an illness or for any other reason.

It does not hold, on the other hand, if the wife has been ordered to go to her parents by her husband, or if she has fled the home shared with her husband because of ill treatment or of serious failings on his part; this point will be explained below in number 3. In such cases the husband is legally responsible for the illness.

Certain situations may arise which are intermediate to the ones discussed. Thus, for example, a wife may make a visit on her own initiative [269] but for her husband's good. Theoretically, he should win the case. Note, finally, that a stay of only twenty-four hours is not considered sufficient to make responsibility for an illness fall on the wife's family.

Colonization has produced an entirely new situation.

178
595*
758
672
797 Colonial law has given the extra wives of polygamists the freedom to go to a mission in order to be instructed in the Christian religion and to contract a monogamous marriage (provided the customary rules governing the dissolution of marriages are observed). Such a woman may fall ill at the mission. If her illness has no troublesome consequences, it does not result in a dispute. But if the illness becomes chronic and in some way detrimental to the abandoned spouse, it may do so.

The polygamists declare that they are free of any responsibility, which they place on the woman's family. But the family has

179 nothing to do with it; it is unjust to bring them into the matter.

585^x Since this legislation is intended to combat polygamy, it is natural
758 that the polygamous husband be the one who suffers from it.

672 The following is a recent example of this situation: Mbóyó
797 Julienne, sister of Botina Jean of Balondó, married to a polygamist
by the name of Insilo of Bokenyola (Bonjoku), went to Bokuma Mis-
sion, where she contracted an incurable illness. (1) Because of her

1. It was a sort of illness with nervous symp-
toms. From a scientific viewpoint, it is
more than likely that she had this illness be-
fore her arrival at the mission, although it
was only manifested there. But the natives
do not make this distinction, so it is not
relevant to our topic.

illness she found it impossible to remarry. She therefore left the
mission but was no longer accepted by the husband she had lived
with so that she had to live in her brother's home. Insilo insisted
that her brother reimburse him for the bride price, maintaining that
in going to the mission, the woman had divorced him; his real
reason, however, [270] was that she had become unfit to fulfill
the duties of a wife. Since Mbóyó did not fall ill in his home, he
held her family responsible.

593^x 3. Abandonment of the home shared by the couple
586^x

In the case of serious failings on the part of a husband, a
woman's usual weapon is to leave their common home and return to
her father's house. If the reason for her flight is serious, it is up to
the husband to go and bring her back. She will not return on her own
initiative. If he refuses to make the first step, he will be accused as
much by public opinion as by his parents-in-law of not loving his
wife, and a rupture will become inevitable. It is therefore his duty
to go to his wife's parents. They will ask him to explain the situation.
The wife, too, will say what she thinks. The parents will settle their
difference. Whether or not the ndonga is present will depend on the

626 The shame attached to the discovery of this sort of miscon-
937 duct in the better circles in Europe is unknown among the Nkundö.
This is natural since isolated instances are readily excused. As to
[152] the habitual offenders, they are sensitive [326] to the above-men-
tioned epithets but will not correct their ways on this account any
more than people in other parts of the world.

937 An adulterous husband is criticized as much as an adulterous
626 wife in spite of the difference in the means of repression which
684 Nkundö law provides for their respective misconduct.

Public opinion therefore corroborates the conclusion toward
which our examination of sanctions has pointed, namely that adultery
is condemned by the Nkundö. Opinion is not based on the existence
of the sanction but seems to spring from their innate mentality, which
makes them perceive adultery as a disorder.

6. Aggravating circumstances

837 If a case of adultery is followed by conception, it becomes
892 especially serious, and for the husband as much as for the natural
672 father. Indeed the latter must assume all the consequences. When
circumstances permit the husband makes his wife denounce her ac-
complice, and she does not refuse to do so. The husband then calls
a meeting and demands a pledge (ndanga) from the culprit, who in
that way acknowledges that he is at fault and shows his willingness
to assume all responsibility. If there is a miscarriage or the child
dies during delivery, the natural father must pay the legal father
an indemnity of "a slave" or more (sometimes 50 rings); a smaller
indemnity is required for a child who is only deformed or sickly. If
the mother dies the indemnity consists of a slave and 50 rings, and it
may go as high as 100 rings.

In the interim the husband no longer goes near his wife. He
leaves her to her lover, who must "preserve the foetus" and observe
all the rites and practices associated with pregnancy and childbirth,
since, physically, he is the father. (1) [327]

1. For fuller details see Chapter X,
Article II, 3. For analogous practices

672
937
[842] in the case of an unmarried mother, see
Chapter I, Part 1, Article III, 3.

[1043] Adultery also becomes especially serious during the period
preceding childbirth when there is a special prohibition against it, as
endangering the lives of both mother and child, as we will explain
in Chapter X, Article III.

7. Remarks and general conclusions

837
[721] 1) In former times the offense of adultery, even in its mildest
form, that is, an isolated act, was one of the chief causes of "wars"
between villages. Sometimes both sides called on their relatives by
marriage to assist them, and the result was a general upheaval.

837
945 2) As a rule a husband wants his wife to be faithful. Doubtless
there are exceptions. Most if not all of them were formerly found
among the old polygamists. At their age they were disgusted with
continual palavers, and their experience as men had taught them
that they often became angry and uselessly complicated their little
lives. They preferred to close their eyes, like good old Bonof
w'ikolongo of Itoko (the Bombwanja clan of the Booya). He came to
see me in the Christian village of Bombomba through which I was
passing at the beginning of March, 1933. I asked him why he was
adorned with so many bells, and he answered naively, "I always
wear them. That way my wives know of my coming already from a
distance. It gives them time to stop slandering me and to send their
lovers away." When I expressed my surprise that he did not want to
catch them in the act in order to punish them and end their infidelities,
he answered me with a smile, "No, Father, jealousy . . . is for the
young. As for me, I have seen so much of it that I no longer have any
desire to get angry and make palavers for these trivialities."

948
837
945 Since the coming of the Europeans some unscrupulous men --
especially polygamists -- have been engaging in [328] a kind of
procuring. They send their wives to commit adultery in order to be
able to catch them in the act and thus enrich themselves. Or else they
lend their wives for one night or more to laborers or soldiers who are

567
595^x
727

could not be otherwise. In such matters each group took care only of its own interests; and none of the procedures usually accompanying the dissolution of a marriage were observed. However, the husband was entitled to an indemnity, in the form of persons or valuables, from the member of his clan who had fomented the war and was held responsible for all its consequences, whatever the way in which he had provoked it. If necessary, this member could be forced to pay. If he did not have the means to pay indemnities, he himself was reduced to slavery, if the influence of the families involved did not prevent this occurrence. When the woman was enfranchised and a new bride price was paid for her, her family was expected to reimburse her former husband.

• [672]

Since, at present, slavery has been abolished, ransom can no longer be paid. A master who wishes to enfranchise a slave woman who has remained faithful to him, simply gives her family the bride price and then goes with his wife to her home to receive the dowry.

Article VI. Life in a Harem

595^x

Wives of the same husband address each other among themselves as bakalé (sing. bokalé). Their husband calls them all bañif, [358] "wives." All except for true slaves are married by means of a bride price. A woman's sons call their mother's bakalé bañif, "wives," but out of respect toward the older ones

586^x
672 If the wife is ill she may have become ill at her husband's home or elsewhere and these two possible situations must be considered separately. In the first instance there is no cause for divorce, since responsibility for her illness rests entirely with the husband. On the other hand, if the wife contracted her illness while staying with her family, the family must shoulder the responsibility, and if her illness is incurable, the husband can have recourse to divorce. But this is not so if the wife has gone to her parents' home in response to her husband's express order, or if she ran away from the husband's for reasons which are just and reasonable. Some situations may give rise to violent disputes. Such is the case, for example, of an illness during a visit undertaken at the wife's own initiative but for the good of the husband. Theoretically, he should win the case. Also, a stay of twenty-four hours is not considered sufficient to place the responsibility for the illness on the wife's family. (1)

1. For details see Chapter VI, Article III, 3 and 4. See also Chapter IX, Article X.

586^x The difference between the consequences of the husband's illness and his wife's is of a practical nature. A husband who suffers from an incurable illness or one that takes too long to cure is usually (though not always) abandoned by his wife. If no other man pays a bride price for her, the marriage continues. If the woman finds a lover, he pays the bride price, which is turned over to the first husband, completing the divorce. But it is not possible to say that the man's illness per se is a cause of divorce, for the wife is under an obligation to take care of a sick husband. [378] But in practice neither of the two families involved demand the application of this law. All yield to the wishes of the woman, who will refuse to continue a union that has so little attraction for her.

Thus illness is not a legally valid reason for divorce. But in practice it is recognized as a situation that can result in the dissolution of a marriage.

[842] Although the Nkundó ardently desire children, sterility

586* and this was generally the case -- he did not kill him personally
682 but assigned the task to someone else -- his son, his younger
[563] brother, or nephew, etc. Preferably, he hired a Botswá. The price
for this service was 20 copper rings, the sum of the bride price paid
[612] for a Botswá woman. Nkundó law places the entire responsibility
for an assassination and all its consequences upon the person who
orders it performed. Certain of the Batswa specialized in this field.
Among them (of those dependent on the Bombwanja) were Esenge
of Bokengé, Mbólóké of Bombembe, Wai w'itúmola of Bakoyó;
Lúwá jw'itómbengándá (died in 1933) also of Bakoyó; Botómba wá
Lokio and Mpótó éy'Ilóké of Mbanja (still alive).

586* The scorned husband had still other means of taking revenge
or obtaining indemnification. He made use of them only if the
occasion was favorable or if he was not in a position [382] to go
into expensive adventures such as a war or an assassination. They
were the following:

3) Ikákelo: (1) A relative of his who was married into the

1. See Chapter III, Article VI.

unfaithful wife's clan could be prevented from returning to her
husband.

4) The seizure of one of the wives of his recalcitrant father-
in-law, or of one of the latter's relatives. This action is called by
the generic term lowáála, which signifies "compensation." (2)

2. The woman who was seized was called
nginda and her descendants, if there were
any, were known as bonginda.

The prisoner was usually put in an etáka (a wooden fork fastened to
the neck) (3) to prevent her flight and hasten the reimbursement of

3. See Chapter VI, Article VII,
4, A, b), (1).

[567] the bride price. If the matter was not settled she became a slave.

586^K other." (1)

● [672]

1. Except, of course, if the new husband puts himself in the wrong by taking the woman home with him before the divorce is completed (see above).

[92] The term for making restitution of the bride price is úndoja (baúmbá, jéngí, etc.); [399] its intransitive form is úndola ("to recover the cost of the bride price," and the passive is únjwa, "to be restituted." The noun is njúndó or wúndó ("restitution," "reimbursement").

2. Methods of making restitution

The woman's father can pay back the bride price in two ways:

1) By means of valuables received from the new husband. In this case the more the latter hastens his payment, the sooner the new union will be made final.

2) By means of his own wealth, lontumú or bokakata (ekakata), an intensive derived from likata, "hand." This method of payment settles the matter more quickly and avoids complaints lodged by the former husband. Sometimes restitution is made in this manner to show wealth and generosity.

In such a case the father acts spontaneously of his own free will. But can he be required to thus make restitution with his own wealth?

Yes. If the bride price is still in the hands of the woman's family, it must be returned immediately. This rule is easily understood, for under these circumstances no practical difficulty stands in the way of reimbursement.

Although as a rule the bride-price valuables will already have been spent for the acquisition of another wife (the nkita), this is not always the case. For example, only a very short time may have elapsed between the conclusion of the marriage and the divorce. But such a case was and is rare. Instances where the bride price was still in the family's possession were even rarer in the past, for people did not want bride-price wealth to remain

768 Nkundó categorically state that the situation now under discussion does not result in the payment of an indemnity.

This observation again brings out the basic difference between jengf and bosóngo, which we have already discussed in Chapter II, Article IX, 2 and Article XII, 5, and suggests that the walo constitutes the marriage agreement, whereas the bosóngo is the substitution of a person for the one that is lost to the clan through the marriage of one of their members.

Article X

A Woman's Death at the Home of Her Own Family

768 We have already drawn the reader's attention several times
593 to the fact that a husband is responsible for his wife because, in
672 accordance with the clan agreement between the families, she
"belongs" to him. [451] The consequence of this stipulation of
Nkundó law is that the husband assumes all risks relating to the wife;
hence he must take upon himself all the damages resulting from
her death. There are exceptions to this general rule, however,
under the following two circumstances:

- 1) If the wife dies while at the home of her own family.
- 2) If the wife dies after having left her own husband for another.

In this article we will examine the first of these two possible situations, leaving the second one for the next article.

If a wife dies while at her own family's home, an exception is made if certain conditions are fulfilled. There are several situations possible:

- 1) The wife returns to her family because she is exasperated with the unfair treatment she receives from her husband. He may not be fulfilling his duties toward her, may be mistreating her unjustly, etc., as we have seen in Chapter VI, Article III. The situation becomes unbearable. In that case the husband is clearly in the wrong, and the wife has the right to seek a little peace in her parents' home. Under such conditions, if she dies before the

768 husband has come to take her back through arranging a palaver by
● 672 means of a boondo, he has no right to complain. He himself
593^x brought on such difficulties by his unfair way of behaving. He is
obliged to make the funeral payments. Because of the strained
relations between him and his father-in-law, the affinal relation-
ship is broken. That is why he will ordinarily refuse to pay the
nkunjí, at least when he has had no children by this woman. If he
omits the payment even though there are progeny, the children are
taken from him by their mother's family.

This situation seldom arose in the past. Young and impetuous
husbands were almost nonexistent. The old men kept the women
for themselves. Age and experience with life had made them more
settled, calmer, more reasonable, so they did not throw themselves
into adventures [452] whose outcome were necessarily to their dis-
advantage. Since today men marry considerably younger, such
situations can arise more easily; although, on the other hand, a
permanent dissolution of the marriage occurs most frequently before
the possible development described.

2) The wife leaves her husband without just reason and,
having returned to her family, dies there. In the past such a situa-
tion was quite rare (Chapter VIII, Article II, 1, A). If no war
occurred before the death of the fugitive (a war automatically
terminated the affair), the husband had every right to reimburse-
ment or to a substitution of another wife for the deceased. The
situation is therefore identical to the one that follows. But there
is no longer any question of sending back the corpse, and if the
husband wants to break the alliance permanently he does not even
need to pay the nkunjí.

Nowadays this situation has become far more common. It
presents no special difficulty; the ancient custom continues to be
observed.

768 It is almost trifling to mention that the matter of total or
593^x partial reimbursement of the bride price can be handled through
friendly transactions between the husband and his parents-in-law.
The following case is typical: Bonjeló of Iámbo (Bonkoso) inherited
Boélé, daughter of Lokálámhá is Tbele of Bonganda. After some
years she left her husband, returned home, and died. Her father

768 sent the notification gift and even added dogs to it, because he
583^x was interested in keeping the affinal relationship. The corpse
was not sent since the woman had died of an infectious disease
and the body was decomposing rapidly so that contagion was
feared. Lokálámbá presented the widower with his youngest
daughter Mbangó as a substitute. But since she was quite young,
Bonjeló did not want her. He was satisfied with an indemnity be-
cause -- after all -- he too wanted to remain on good terms with
his father-in-law. The latter sent him 22 rings as an ilengé
(slave), and thus the matter was closed. [453]

768 3) The wife has returned to her family on her own initiative
● 672 in order to visit her parents, nurse them, or to participate in her
593⁺ family's communal fishing, to get her supply of edible caterpillars,
or for any other reason. In such a case the responsibility passes
from the husband to the parents. The family must notify the
husband of the death (always, of course, through the ndonga).
When the husband receives the news he accuses his parents-in-law,
saying: lóómbomela walf, "You have killed my wife." He de-
mands that the corpse be sent to him so that he can wash it,
adorn it in an appropriate manner, and mourn for the deceased.
Subsequently he sends the corpse back with the ndonga and de-
mands that another wife be substituted for the deceased or, if
none is available, that the bride price be returned to him. As
long as his father-in-law does not fulfill his obligations, the
husband will not bring the funeral payments. Moreover, if the
family of the deceased is recalcitrant or too slow, he will practice
ikákelo, that is, he will hold one of his kinswomen who is married
into the clan of the deceased in order to obtain her bride price.
In this way he will obtain the valuables to which he is entitled;
the two bride prices balance one another and the matter is settled
permanently. In that case he naturally retains all his rights over
his children.

This solution applies on even stronger grounds if the wife's
family themselves have called her home.

If the wife falls ill in her parents' home, it may happen
that her husband wants to care for her himself. He will demand

768 a pledge (ndanga) from his father-in-law to the effect that the
● 672 illness started in his home. If he neglects to take this precaution
593 and his wife dies, he has no legal means to claim indemnification.

4) A solution identical to the one described above is applied even if a wife goes to her parents for her husband's personal benefit in order to get him something he needs, such as beer for a [454] feast, valuables with which to settle a palaver, etc. It holds true even if the husband has sent her expressly for this purpose.

This situation easily gives rise to violent disputes, however. The wife's family tries to reject the husband's claims by objecting that it is he himself who sent his wife, or at least that she came to them solely for his sake. Nevertheless, in the end the husband is the one who is right and who wins the case. (1)

1. A stay of twenty-four hours is not considered sufficient to place the civil responsibility for an illness, nor therefore for death, on the wife's family.

5) The wife goes home ill. As we have seen in Chapter VI, Article III, 2, the parents are not willing to nurse their daughter unless their son-in-law -- always through the ndonga -- gives them a ndanga in testimony of the fact that she was ill when she left him. The husband thus recognizes his responsibility for all possible consequences of the illness. Consequently, he can make no claims in case of death.

Since the civil responsibility for the death falls to the husband, the latter is notified by the ndonga, but the family does not send him a notification ring. The ndanga for the illness takes the place of this payment. The widower asks that the corpse be brought to him so that he can perform the last rites, and this request is always granted. There is nothing special about the rest of the procedure; everything takes place as if the wife had died in her husband's home.

6) The wife is repudiated by her husband. In the past this happened only if the woman behaved very badly and showed herself to be incorrigible. As we have seen in Chapter VIII, Article II, 1, no. 2, the husband did not send her back to her family; he

768 fastened her to a fork (etāka) until he was reimbursed. Sometimes
● 672 the ndonga intervened to free her, but by doing so he took upon
593 himself the responsibility of making restitution of the bride price.
In this last [465] instance, if the wife died in the home of her
family, the husband was entitled to reimbursement just as he would
be in case of a divorce. Thus we come back to the situation
described under 2) and 3), the forms varying according to whether
or not the widower wanted to continue the affinal relationship.

[178] Nowadays the situation has changed entirely. The colonial
administration no longer permits the use of the etāka. Consequently,
a man who wants to get rid of his incorrigible wife acts in such a
way that she will leave him of her own free will. And the situation
is again that described in 2).

If the husband has sent his wife away himself by placing her
in the hands of the ndonga, his parents-in-law will refuse him an
indemnity or any restitution of the bride price and often will not
even accept the nkunjī. They answer his demands by telling him
that he should not have repudiated the wife whom he freely chose
for himself. Thus most men resort to the procedure described in
the next paragraph. There are circumstances, however, under
which this mode of action is more difficult; this is so especially in
the case of monogamists, since its execution requires several weeks,
sometimes several months. In the interim the wife does as she
pleases and neglects her husband, so that the latter practically
finds himself a bachelor.

797 Evangelization has added a second difficulty. Catholic
768 marriage is indissoluble. Catechumens and Christians who wish to
672 marry must therefore be careful. Before admitting them to re-
593 ligious marriage, we require that at least the walo be paid. But
the young men know the temperament and value of their fiancées
only through experience. In almost every case therefore they have
this experience at home before the walo, in accordance with their
ancestral custom. Then, if one of the two parties is pagan (which
happens very often), the disciplinary rules of the Catholic missions
in the Congo require that they spend a minimum of six months

797 preparing at a mission station or catechumenate [456]. During
768 the experimental period, the engaged pair sometimes find faults
● 672 in each other which lead them to foresee a married life filled with
593^x difficulties and resulting in a breakup. Therefore it is preferable
that they carry out the required measures before marriage. The
woman is usually the source of the difficulties. The female sex
has hardly been touched by evangelization, chiefly because pagan
parents, who do not oppose the Christianization and education of
their boys, take their revenge on the girls. What they fear par-
ticularly is the girls' opposition to premature marriages or their
flight to the centers. For those people, therefore, it is almost
impossible to get round the difficulty in such a way. As the situa-
tion is not provided for in traditional law and, furthermore, most
of the natives who hold power are clearly indifferent, if not
hostile, to evangelization and the stability of Christian marriage,
these special circumstances are not taken into account in any way,
to the great detriment of the young people who are thus caught
between their consciences and their temporal interests (which in
this instance have strong repercussions on their moral life). The
attitude of almost all the chiefs and judges in this matter is not
contrary to ancestral law -- since the situation was unknown --
but it is certainly opposed to the spirit of that law.

7) The couple go to the home of the wife's family together.
672 Illness and death that come unexpectedly during such a visit are
768 imputed solely to the husband, who retains all the risks except,
593^x of course, if the husband returns home but his wife does not follow
him, remaining with her parents. Indeed in such a case we fall
back on the solution described in 2).

8) Here we come back to the possibility indicated at the
end of Article IX, 1, namely that of the wife who dies in her [457]
family's home before the walo is paid. If the husband is in the
wrong (see under 1), 5), and 7), the solution given in the article
in question retains all its validity; the husband's "responsibility"
remains intact. In the other instances it is reduced but not taken
away. Actually, two laws are in conflict. On the one hand, there
is the "responsibility" of the husband who has not fully acquitted

768
672 himself of his obligations, and, on the other, the "responsibility"
593 of the woman who did not remain with her husband. To draw a
comparison from the realm of accounting, there are two sides,
debit and credit. But the latter lies chiefly on the side of the
woman's family, for at the time of death the woman is not yet
a wife in the full sense of the word. Consequently, the husband
must pay an indemnity. But the fact that his fiancée died at
home with her family is for him an extenuating circumstance as
a result of which the indemnity is reduced, so that he need only
pay about a half, that is, around 25 to 35 rings.

Conclusions

The explanations given may seem a little wordy. Nevertheless, it was useful to indicate all the diversity of possible situations in order to deduce the rule and to grasp the basis of the system from actual facts. Everything considered, it would thus appear that the husband assumes all risks with regard to his wife, and that he must bear all the damages resulting from her loss. She really belongs to him and not to her family in spite of any impression one may have that on the contrary the woman belongs more to her parents than to her husband. For even in the instances where she dies in her parents' home, having gone there for a justifiable reason, her death is considered an injustice toward her husband, since a wife's place is in the conjugal home. Such is the general rule. Exceptionally, in special instances defined by law, a woman's parents reassume the risks for her, that is, they again become responsible for her. [458]

Article XI

A Wife's Death in the Home of Another Man

768
672 Here we will consider what happens if a woman who has
left her husband and gone to another man dies in the home of the
latter before the restitution of the bride price to the former. Two
situations may arise:

768
672 1) The walo may have been paid by the second husband, but restitution to the first husband may not yet have been made. The latter is entitled to reimbursement of the bride price just as he would be if the woman had not died (Chapter VIII, Article III), whereas the rules given in the preceding article are applicable to the new husband.

2) The walo may not yet have been paid; in that case the second husband must conform to the rules given in Article IV, 1 and Article X, 8). The first husband must recover the valuables to which he is entitled in accordance with the rules indicated in Chapter VIII, Article III.

Here are two recent instances:

Ifomf yā Lokombe, daughter of Ikotama of Bontole wā Yuyokonda (Bongfli), was married to Baleka of Nkfenjōlō (Losenge, Bombwanja). One day she went to Bempumbā to be baptized by the Protestant missionary. On her way back she was delayed by Ilumbé of Iāmbo (Bonkoso), who wanted to marry her. He gave Ikotama an ikulā. Shortly thereafter Ifomf died. Ilumbé was obliged to pay a large indemnity, equaling the entire bride price, to Ifomf's father, who in turn had to reimburse Baleka.

Āmbā, daughter of Nkālānga of Ifutō (Bongfli) was married to Yōnjwa of Boīmbo. She left him for Bengōngō of Boambā, who paid the ikulā. One day when Bengōngō was returning from a trip, Āmbā ran to meet him in order to bid him welcome. But in her haste she struck the root of a shrub, stumbled, and fell. Her fall must have caused internal injuries, for she was forced to remain in bed and died shortly thereafter. Bengōngō was obliged [459] to pay an indemnity of 30 rings plus two slaves, or a total of 80 rings, to Nkālānga, who in turn reimbursed the first husband.

The case is comparable to that of a wife's death which occurs in her husband's home but is caused by another man -- who either had daily relations with her or caused a pregnancy which resulted in her death. The responsibility in either case falls upon the lover, who must indemnify the husband. The indemnity is always very large, equaling the amount of a bride price or more. (1)

1. See Chapter I, Part II, Article V, 1, and Chapter VI, Article VII, 6.

768
672
178 Colonization has given rise to a new legal situation which is not provided for in Nkundó traditional law. If a woman takes advantage of the freedom permitted her by colonial legislation and goes to a mission to obtain instruction and make a monogamous marriage, and then contracts an illness from which she dies (at the mission, in the hospital, or even in the home of her family -- a question of place which has no legal importance), we find ourselves confronted by an entirely new situation. The husband no longer considers the woman his wife since she has left him, even though theoretically she continues to retain that status. On the other hand, she has not gone back to her family or gone to live with another man.

Polygamous husbands want to throw the "responsibility" back upon the woman's parents. But actually they have no part in the events, and it is unfair to involve them in the situation.

[197] They do not bring the mission into the matter. As a matter of fact, the mission performs a service to the woman and to society as a whole in trying to elevate it morally and culturally.

What should one think of this situation? In the preceding article we have seen that the husband assumes all risks in relation to the wife. Certain exceptions to this rule [460], which we have explained, have been formulated in Nkundó law; but outside of them, the law retains its dominion, since the exceptions are narrowly defined. Thus it applies to the situation with which we are dealing, and consequently the damages must remain on the husband's account.

Moreover, this interpretation is to be encouraged for the following reason:

The purpose of the legislation involved is to protect freedom in this matter of capital importance and to favor monogamy and the gradual abandonment of polygamy. Polygamists -- as a group -- must perforce suffer from it in one way or another. It is inconceivable that a struggle against an abuse would not affect the persons guilty of it.

768
672
692 Such cases are still very rare, but their frequency may increase with the progress of evangelization.

In terminating this discussion we must make one point that is related to both of the last two articles. The cause of death has no

768 legal importance. The solutions given are the same whether the
● 672 cause of death be organic or criminal. If the latter is the case,
682 however, the murderer must pay an indemnity, which is given to
the person who has been wronged, whether it be the woman's husband or her family; in any case he thus satisfies the requirements of justice.

A woman may be murdered while she is visiting one of her husband's kinwomen in accordance with her husband's wishes. In that case the sister-in-law's husband bears the responsibility. He must indemnify the victim's husband, and he himself is entitled to indemnification by the murderer. To simplify this procedure, the murderer can make his payment directly to the widower; justice is still safeguarded. But in no case does the indemnity go to the victim's father, for legally and economically it belongs to the husband, not to the father, who is indemnified through the funeral payments. [461]

Conclusions

581 1) A marital union is broken by death only for the person who
768 dies. For the one who remains alive, the dissolution is completed only after other procedures. If the husband dies the widow remains the wife of the heirs and is free only after restitution of the bride price has been made. At the death of the wife the husband can marry a substitute.

581 A widow's remarriage without restitution of the bride price
581 (and therefore without a new bride price), or that of a widower
768 with a substitute, is considered a continuation of a pre-existing union which has not been dissolved. This continuation is not absolute, however. Actually, it is perfect only in the case of the husband's death, in which case his kin group inherits all his rights and therefore also the rights to the wives he has acquired by means of his capital. On the other hand, if a widower is to continue the relationship after his wife's death, he must pay another bride price.

The difference between the two instances is due to the connection of the bride price with the "ownership" of a woman; she remains subject to it and as a result becomes legally the spouse

§53 The child is given to a wet nurse (a kinswoman, a stranger, a
Botswana woman, depending on who is available).

§47 If the mother's body shows no signs of evil-doing or of
§45 "the hatred of others," it is thought that her death was caused
§43 by evil spells on the part of the child. Thereupon some kill the
child to prevent it from doing harm during its whole life; others,
on the contrary, spare it despite everything.

§43 If the husband (for it is he above all who is involved, since
§37 he is most exposed to possible lapses) has unfortunately been guilty
of misconduct, his wife has only a slim chance [478] of salvation.
Nevertheless, it is still possible for her to be saved, on condition
that from then on her husband abstain from any sexual act and
from all the accidental gestures and actions described above. The
least he can do under these circumstances is to inform his wife of
his indiscretion so that she can take precautions. If he wants to

● §72 ward off any possibility of causing his wife's certain death, he sends
her home and gives his father-in-law a pledge (ndanga) through
which he recognizes his guilt and shows his intention to assume
the entire responsibility for his misdeed. An upright man prefers
to act in this fashion, for he never knows whether one day he will
not inadvertently violate one of the prohibitions.

B. The child's death is the result of the putrefaction of
§53 the mother's milk, the mother being thus incapable of nursing.
§37 As in the preceding case, the offense is a priori imputed to the
husband -- isf aboma bōna la ndota. (1) Since he has wronged no

[153]

1. Ndota is an illness caused by the
violation of prescriptions of a sexual
nature (See Chapter I, Part II, Article
IV, 2, A).

one but himself, no palaver ensues; the "natural" punishment is
sufficient. This does not mean that he is not the object of evil
tongues; people point at him and at times remind him of his
misdeed. To remove the blame from himself, he can resort to

[C2] An *afamu* can never walk alone, but must always be accompanied by others, and on no occasion whatsoever may he run. Even though he never washes, if he is out in the rain and sees everybody else hurrying for shelter, he will not quicken his pace. [F1] His movements must be slow and deliberate. The *afamu* never sleeps alone; waking and sleeping he is attended by someone. But apart from this he is free to go where he wishes. The *afamu* is not indiscriminate, as others may be, in his private habits, but must use his own latrine at all times, and if travelling must have his own latrine in each place where he stays. [F2] The inland *afamu* frequently take advantage of this custom by hiding their accumulated brass rods at the bottom of a freshly dug latrine. [S2] Such hidden wealth will be acquired by an inheritor at the decease of the *afamu*.

In speaking of himself the *afamu* never refers to himself by his title but always by his own name.

[C2] The couch upon which the *afamu* sits or reclines during the daytime may not be shared indiscriminately with others, but those permitted to sit upon it at the same time as the *afamu* are *mwani*, women, and Barwa. 352 The reservation of this couch for the use of the *afamu* is not surprising, but the exceptions are. One explanation given [S2] was that women and Barwa are not *hutu ka au*, persons in particular; they do not count for anything in the social life of the community; they are not really 'people'. 265 Another explanation was that they do not pay fines, this being tantamount to saying that they are exempt from laws and therefore cannot break laws even by doing what would be for others an illegal act. [C2] The stool of the *afamu*, however, has closer restrictions in the manner of its use. Besides the *afamu* only two others may sit upon it, *Nzusi* and *Mperu*. It is always carried by one of his wives, though not necessarily by any special one.

[C2] The restrictions concerning the food of the *afamu* are many. He may eat food only in his own house, or, if on a journey, in one given over for his use. He may not 262 enter another house to partake of food even if invited to do so. Likewise the *afamu* may not eat in the forest, or eat or drink anywhere along the road when on a journey, but must wait until he arrives at a village and has a house at his disposal in order to partake of food and drink. He never 'sleeps with hunger'; even if a wife or child should die causing him great sorrow he must partake of food before going to sleep.

[F2] The Bonginda *afamu* must never go into mourning, and death must be ignored by them, but the inland *afamu* are permitted to mourn. All food carried to an *afamu* must be covered, this rule even applying to water. Food must not be placed in a basket with high sides (*shela*), but in a shallow one (*nyala*), and no food that has been kept overnight in a pot may be eaten by him: swelling of the abdomen will result. [C2] Various foods are taboo, among these all fast-moving snakes, though slow-moving ones may be eaten; light-coloured palm-nuts may not be eaten, and a variety of yam known as *mwakiki* is shunned, for it is with the tough stems of the *mwakiki* that the dying body of the *afamu* will be bound to ensure the sitting posture necessary for burial.

[C2] Among regulations roughly classed as social, we have already covered several in references above, and have referred to the *afamu* in council. It may be added here that [S2] he is expected to agree with the majority of the councillors and not fall out with them. [F2] The rules affecting the songs of the *afamu* are accompanied by severe penalties. There must not be any fighting; if anger is aroused to the point of blows the antagonists

THE NKUMU OF THE TUMBA

443

must go to the *monkiki* for their fight, this being the location of the houses belonging to the sons of the *nkumu*. The penalty for breaking this law is a fine, and if no fine were forthcoming hanging used to be the alternative. If a quarrel arises elsewhere and one party wishes to avoid fighting, he may retire to the *nsogo* and thus be safe. No trees in the *nsogo* may be climbed. There are, however, privileged classes exempt from all such rules, and these embrace a good many people. Thus, the mother of twins, twins, Batwa, *mwami*, and all members of the *molembu* and *shapo* are exempt from the laws of the *nsogo*. If any of these commit acts which are illegal for those coming under the law, they are not held guilty, but their actions will not be condoned; they will be considered breaches of good conduct, and will be dealt with informally; the parties will be quietly reprimanded, and adjured to observe the proprieties of conduct. For outsiders breaking the laws of the *nsogo*, what corresponds to a warrant is necessary. It is necessary to catch the culprit in the act and hale him before the *nkumu*. The *nkumu* himself cannot do this, nor can any of the *shapo*; it must be done by one of the *molembu*, and so if the *nkumu* sees someone infringing the law he will try to get one of the *molembu* on the spot in a hurry in order to catch the offender.

In war,¹ it is the *molembu* who is most active in preparations, but the *nkumu* will accompany his party to battle, keeping well in the rear, and surrounded by good fighters. He does not wear his *mwami* but puts on the informal hat. If an *nkumu* were captured, he would never be tortured or killed as were other prisoners, unless he specifically sought such a fate. He could be ransomed, and his captors would beseech him to let his people ransom him, but in many cases an *nkumu* would invite death rather than endure the shame of being yielded up as a prisoner of war.

An *nkumu* is always addressed by a double clap of the hands, and will not reply to anyone rude enough to speak to him first. In answer to the clap he replies with a word of wisdom expressed in an aphorism or proverb: Such a reply, however, is common to all elders, who have their favourite aphorisms ready for any who pay them special honour. Anything the *nkumu* says must be answered not by the customary *nte biki* (even so) which ordinary people use, but with the special word, *kings*, which is reserved exclusively for replying to an *nkumu*, and means the same thing.

When the hour of death approaches, an *nkumu* is attended by his Batwa. It is a rule that he must not die a natural death, and near the end, while he is still conscious and can still speak, all 'free men' clear out and leave the Batwa pygmies to their task of tying the *nkumu* very tightly with the fibrous yam vines known as *mwitiki*. Often this secure lashing in the sitting posture, known as *ilima*, is sufficient to finish the *nkumu* off, but sometimes the work is expedited by twisting his neck.² Then it is announced that he is dead, *ashika*, this being in contradistinction to the customary phrase *ankumu molembu* used of the death of ordinary people. While the latter means

¹ Owing to the lack of tribal cohesion, warfare was not on any considerable scale. The method of warfare consisted in sending groups of young men to fight first, the older only joining in when one side began to get the worst of the fray. Victors and vanquished in such fights were designated 'husband' and 'wife' respectively, and members of the one group were free to come and go in the villages of

the other, and even to help themselves to food. In future wars 'husband' and 'wife' were supposed to combine against their common foe.

² Besides *nkumu*, elderly and rich men, fathers and mothers of twins, and twins are buried in the *ilima* or sitting posture, in contradistinction to the *nsogo* position which is the recumbent one used for ordinary people and slaves.

614 He represents the A-group in the council of elders of the village
 and of the other large units. Since no members of the group
 [672] are considered capable of conducting affairs, all the legal
 transactions which they undertake are treated as though they had
 been sanctioned by the patriarch. To a large extent the members
 of the group may represent one another. In the absence of the
 elder, a younger member may act as the representative of the
 [623] group at council meetings. When the senior member dies, his
 function will be taken over by the next oldest member of the
 group.

614 An A-group will split up only through internal conflicts
 602 which cannot be bridged or through a large population increase.
 The newly-formed A-groups continue to maintain a close rela-
 tionship which, at first, is much closer than among the B-groups
 whose A-groups have split much earlier. In the higher ranks
 cohesion after the split diminishes only gradually; thus many
 gradations develop in the feeling of cohesion. These gradations
 could not be even approximately reproduced in a diagram with
 any degree of exactitude. There is no formula by which the
 split takes place, as there is, for example, among the Tallensi (13)

13. Fortes, The Dynamics of Clanship,
 p. 34 f.

where it is determined by a certain number of generations.
 614 Theoretically the A-groups are "eternal." The A-groups are
 586 subdivided into small families. Within the polygynous families
 592 nuclear families (Familienkerne) (14) have a semi-independent

14. Thurnwald, Menschliche Gesellschaft,
 Vol. 4, p. 12.

position economically. Each wife has her own house, A hus-
 band's wives and the wives of his sons have their houses within
 the same homestead. As the master of the homestead, the
 father has an open shelter where the men spend their time and
 [768] hold their meetings. Upon the death of the master of the